



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

IP

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

08/719,742    09/25/96    WILLIAMS    L    1172.003

HM12/0816

JOSEPH H. GUTH  
CHIRON CORPORATION  
INTELLECTUAL PROPERTY-R440  
P.O. BOX 8097  
EMERYVILLE CA 94662-8097

EXAMINER

LAZAR WESLEY, E

ART UNIT	PAPER NUMBER
----------	--------------

1646

24

DATE MAILED:

08/16/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**08/719,742**

Applicant

**Williams**

Examiner  
**Eliane Lazar-Wesley**

Group Art Unit  
**1646**



☒ Responsive to communication(s) filed on Jun 12, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-5 and 7-53 is/are pending in the application.

Of the above, claim(s) 16-22, 24, and 45-48 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-5, 7-15, 23, 25-44, and 49-53 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1646

## **DETAILED ACTION**

### ***Continued Prosecution Application***

1. The request filed on 6/12/00 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 08/719,742 is acceptable and a CPA has been established. An action on the CPA follows.

### ***Claim Rejections - 35 USC § 112***

2. Claims 13-15, and 43-44 remain rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for repairing epithelial cell damage, does not reasonably provide enablement for preventing epithelial cell damage. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make/use the invention commensurate in scope with these claims.

The claims remain rejected for the reasons of record in the Office action of May 24, 1999.

3. Claims 1-5, 7-15, 23, 25-44 and 49-53 remain rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims remain rejected for the reasons of record in the Office action of May 24, 1999.

Art Unit: 1646

***Claim Rejections - 35 USC § 102***

4. Claims 1-5, 7-15 and 23 remain rejected under 35 U.S.C. 102(a) as being anticipated by Ring et al., Growth factors in Porcine full and partial thickness burn repair, Wound repair and regeneration, Fifth annual meeting of the wound healing society, Minneapolis, MN April 27-30, 1995, issue of January-March 1995, for the reasons of record in the Office action of May 24, 1999.

***Claim Rejections - 35 USC § 103***

5. Claims 25-44 and 52-53 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Ring et al., Growth factors in Porcine full and partial thickness burn repair, Wound repair and regeneration, Fifth annual meeting of the wound healing society, Minneapolis, MN April 27-30, 1995, issue of January-March 1995, cited by applicants, in view of Martin et al., Progress in growth factor research 4:25-44, 1992, Antoniadis et al., US Patent 4,861,757, Gospodarowicz et al., US Patent 5,677,278, Jyung et al., Surgery 115(2):233-9, February 1994 (W) and Yanni, US Patent No 5,624,893 (A) for the reasons of record in the the former office action .

6. Claims 49-51 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Ring et al., Growth factors in Porcine full and partial thickness burn repair, Wound repair and regeneration, Fifth annual meeting of the wound healing society, Minneapolis, MN April 27-30, 1995, issue of January-March 1995, cited by applicants, in view of Martin et al., Progress in growth factor research 4:25-44, 1992, Antoniadis et al., US Patent 4,861,757, Gospodarowicz et al., US Patent 5,677,278, Jyung et al., Surgery 115(2):233-9, February 1994 (W). and Yanni, US Patent No 5,624,893 (A) , as

Art Unit: 1646

recited for claims above, and further in view of Song et al., US Patent 5,399, 361 for the reasons of record.

7. No claim is allowed.

8. This is a CPA of applicant's earlier Application No. 08/719,742. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eliane Lazar-Wesley, PhD, whose telephone number is (703) 305 4059. The examiner can normally be reached on Monday-Friday from 8:30am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Yvonne Eyler, can be reached on (703) 308 6564.

Art Unit: 1646

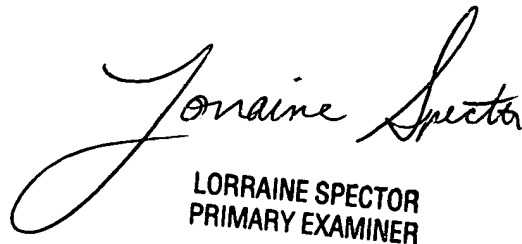
Official papers filed by fax should be directed to (703) 308 4242. Faxed draft or informal communications with the examiner should be directed to (703) 308-0294.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

ELW

August 11, 2000

ew

  
LORRAINE SPECTOR  
PRIMARY EXAMINER